

TM42

Notice of Allowability	Application No.	Applicant(s)	
	10/678,793	JAMION BLACKWELL	
	Examiner Khoa D. Huynh	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to examiner amendment filed on 03/04/2005.
2. The allowed claim(s) is/are 32.
3. The drawings filed on _____ are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 03042005.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date 03042005.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other See Continuation Sheet.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Jamion Blackwell on 03/01/05 and 03/02/05.

The application has been amended as follows:

The current abstract has been replaced with the new abstract as follow:

An apparatus for distributing and safely housing lipstick, the apparatus comprises a lipstick casing and an assembled refilling cartridge. The lipstick casing has a top cap, an O-ring connected to the attachment of the top cap, a hollow body including a retainer lip formed inside the body, and an end cap. The assemble refilled cartridge has a plastic cup, a s-cut sheath, a spiral cut sheath, and a cartridge end cap. The lipstick casing provides the slip free grip and housing protection for the assembled refilled cartridge and allow the user to use the fully assembled refill cartridge without removing the refill cartridge from the lipstick casing.

In the specification,

page 4, line 1: delete "my be" and substitute --maybe--,

page 6, line 12: after "indentation" insert --50--,

page 7, line 13: after "suitable material." insert --The body has an front opening 5 and a back opening 4.--,

page 7, line 16: delete "counterbore" and substitute --retainer lip--,
page 7, line 21: delete "counterbore 32 is a",
page 8, line 1: delete "40" and substitute --32--,
page 8, line 2: delete "counterbore" and substitute --retainer lip--,
page 8, line 3: delete the entire line 3,
page 8, line 4: delete "as an alternative" and substitute -- includes a larger inner diameter 8 at said back opening, a step portion 15 and an inner smaller diameter 9 extending from said step portion toward the front opening--,
page 8, line 4: delete "slot" and substitute --hollow body--,
page 8, line 6: after "endcap 28" insert --partially--,
page 8, line 7: delete "wedge" and substitute --retainer lip--,
page 9, line 13: delete "slug" and substitute --product--,
page 10, line 6: delete "40" and substitute --58--,
page 11, line 1: delete "means of",
page 11, line 10: delete "40" and substitute --58--,
page 11, line 11: delete "counterbore 32" and substitute --the retainer lip 32 of the hollow body 16--.

Claims 1-31 have been cancelled.

New claim 32 has been added as follow:

32. An apparatus for distributing and safely housing lipstick, said apparatus comprising:
a lipstick casing, said lipstick casing further comprising:

a top cap having at top portion and a lower portion, said top cap having an attachment attached to said top portion of said top cap and a top cap threading located at said lower portion of said top cap,

an O-ring having tapered ends connected to said attachment, said attachment having a small drilled indentation on each side with a retainer wall in the middle, wherein said tapered ends of said O-ring securely clamped into said indentations and said retainer wall serves to stop said O-ring from spinning,

a hollow body having a front opening and a back opening, said front opening having a threading upper for connecting to said top cap threading, said back opening having a threading lower, said body also having a retainer lip formed inside said back opening of said body, said retainer lip having a larger inner diameter at said back opening, a step portion and an inner smaller diameter extending from said step portion toward the front opening, and

an end cap having end cap threading for connecting said end cap to said threading lower of said top cap;

an assembled refilling cartridge further comprising:

a plastic cup that holds a lipstick product, said cup having cup divots, a s-cut sheath having s-cuts down both sides parallel to each other, said s-cuts allow the cup divots to slide up and down on a lock axis, said s-cut sheath also having a s-cut sheath lip located at the top of said s-cut sheath,

a spiral cut sheath slides over said s-cut sheath and stops at the top of said s-cut sheath by said s-cut sheath lip, and

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a cartridge end cap having a lip that is friction fit into said retainer lip of said body, wherein said plastic cup, said s-cut sheath, said spiral cut sheath and said cartridge end cap are assembled into the fully assembled refill cartridge;

wherein when the fully assembled refill cartridge is inserted into said back opening of said body of the lipstick casing, said lip of said cartridge end cap is snug fit against said retainer lip of said body and thus, prevent the assembled refill cartridge and said cartridge end cap from sliding further upward,

wherein upon attaching the end cap to the back opening of the body, said end cap further pushes the cartridge end cap against said retainer lip of said body and locks the cartridge end cap in place, and thereby allowing the user to raise the lipstick product up and down by spinning said spiral cut sheath which protrudes outwardly from said front opening of said body,

wherein said body and said end cap provide the slip free grip and housing protection for said full assembled refilled cartridge and allow the user to use the fully assembled refill cartridge without removing the refill cartridge from the lipstick casing.

2. Claim 32 is allowed over the prior art of record.
3. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: Figure 1 and Figure 4 need to be include the changes as marked in red (see attached propose drawings correction including in the Office Action dated 03/04/05). In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

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4. The following is an examiner's statement of reasons for allowance: none of the cited prior art teaches an apparatus for distributing and safely housing lipstick having, in conjunction with other limitations, a lipstick casing with a hollow body and an end cap, and a fully assembled refill cartridge having a cartridge end cap, wherein upon attaching the end cap to the back opening of the body, the end cap further pushes the cartridge end cap against the retainer lip of the body and locks the cartridge end cap in place, and wherein lipstick casing provide the slip free grip and housing protection for the full assembled refilled cartridge and allow the user to use the fully assembled refill cartridge without removing the refill cartridge from the lipstick casing.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Patent Examiner
Art Unit 3751

HK
03/04/05